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EXAMINER

CRAWLEY, KEITH L

ART UNIT	PAPER NUMBER
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2629

NOTIFICATION DATE	DELIVERY MODE
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11/09/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Response to Arguments

1. Applicant's arguments filed 10/12/11 have been fully considered but they are not persuasive. Applicant notes that in the prior office action (non-final, mailed 3/25/11), claims 1 and 12 were rejected as being anticipated by Friend. Examiner agrees. In response to this prior non-final office action, Applicant amended claims 1 and 12 (see amended claims filed 6/27/11) and argued that "[Yamazaki] fails to provide any teaching to correct the deficiency found to exist in [Friend]." (see applicant arguments filed 6/27/11, pg. 10, 2nd ¶). This deficiency found to exist in Friend, (namely that Friend fails to disclose dividing said frame period into a first sub-period and an adjacent second sub-period, see instant office action, final rejection, mailed 8/12/11, pg. 3, line 15-19) exists because the scope of claims 1 and 12 was altered via Applicant's amendment (filed 6/27/11), thereby necessitating a re-characterization of Friend. In the subsequent office action (final, mailed 8/12/11), Yamazaki was brought in to teach limitations introduced to claims 1 and 12, and Examiner responded to Applicant's arguments regarding Yamazaki (see final rejection mailed 8/12/11, pg. 7, Response to Arguments). In other words, Applicant's amendment (filed 6/27/11) changed the scope of claims 1 and 12, requiring a new interpretation of Friend and the inclusion of Yamazaki. This new grounds of rejection, namely Friend in view of Yamazaki under 35 U.S.C. 103, was necessitated by Applicant's amendment. Thus, the designating of the instant office action as Final is not premature, and claims 1-12 stand as Finally rejected.
2. Applicant further argues that Yamazaki fails to disclose a system where the frame is divided into a first and second, adjacent, subframes, and further that Yamazaki

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discloses that the frame is divided into three and four subframes. Examiner disagrees, and Applicant's attention is drawn to figs. 3-5 and col. 5, line 6-45 of Yamazaki. For example, line "7" of fig. 3A discloses two sub-periods, one with a width of 1, the other with a width of 4. Furthermore, lines "26" and "37" of fig. 3A clearly discloses two sub-periods, one with a width of 5, the other with a width of 16. Thus, Yamazaki does disclose dividing a frame period into a first sub-period and an adjacent second sub-period, as recited in claims 1 and 12.

1. Furthermore, in response to applicant's argument regarding the incorporation of elements of Yamazaki into elements of Friend, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). **Thus, the final rejection of claims 1-12 is maintained.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEITH CRAWLEY whose telephone number is (571)270-7616. The examiner can normally be reached on M-F, 7:30-5:00 EST, alternate Fri. off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on (571)272-7681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/KEITH CRAWLEY/
Examiner, Art Unit 2629

/Bipin Shalwala/
Supervisory Patent Examiner, Art Unit 2629